

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
KAUAI ISLAND UTILITY COOPERATIVE)
For Approval of Changes to its)
Tariff, Net Energy Metering.)
Transmittal No. 06-01.)

DOCKET NO. 2006-0134

DECISION AND ORDER NO. 23495

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

2007 JUN 21 A 10:10

RECEIVED

Filed June 19, 2007
At 8 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii

Karen Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
KAUAI ISLAND UTILITY COOPERATIVE)
For Approval of Changes to its)
Tariff, Net Energy Metering.)
Transmittal No. 06-01.)
_____)

Docket No. 2006-0134

Decision and Order No. 23495

DECISION AND ORDER

By this Decision and Order, the commission approves KAUAI ISLAND UTILITY COOPERATIVE's ("KIUC") Revised Rule No. 17, Net Energy Metering, filed on May 1, 2007.¹

I.

Background

A.

Acts 99 and 104

Act 99, 2004 Session Laws of Hawaii ("Act 99"),² amended HRS § 269-101 of the Net Energy Metering Law (codified at

¹KIUC's Revised Transmittal Letter; and Revised Rule 17 (including Exhibits A - C), filed on May 1, 2007.

The Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate"), is an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes ("HRS") § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a). KIUC and the Consumer Advocate are collectively referred to as the "Parties."

²Act 99, 2004 Haw. Sess. Laws §§ 1 - 2, at 392 - 393.

HRS chapter 269, part VI) by revising the definition of eligible customer-generator to: (1) include government entities; and (2) increase the capacity level of a qualifying eligible customer-generator's facility, from ten to fifty kilowatts ("kW"). Act 99 also amended HRS § 269-111, governing safety and performance standards for eligible customer-generator facilities.

Act 104, 2005 Session Laws of Hawaii ("Act 104"),³ also amended the Net Energy Metering Law by:

1. Authorizing the commission to increase, by rule or order:

A. The maximum capacity of eligible customer-generators to more than fifty kW;⁴ and

B. The total rated generating capacity produced by eligible customer-generators to an amount above 0.5 percent of the electric utility's system peak demand (collectively, "increasing the maximum thresholds");⁵

³Act 104, 2005 Haw. Sess. Laws §§ 1 - 10, at 257 - 260.

⁴See HRS §§ 269-101 (definition of "eligible customer-generator") and 269-101.5 (maximum capacity of eligible customer-generator).

⁵See HRS §§ 269-102 (standard contract or tariff; rate structure) and 269-104 (additional customer-generators). The commission is currently reviewing the feasibility of increasing the maximum thresholds in In re Public Util. Comm'n, Docket No. 2006-0084.

2. Requiring an electric utility to provide eligible customer-generators with a twelve-month reconciliation of the customer's consumption and production of energy;⁶ and

3. Clarifying the policy for actions taken on credits for excess electricity generated by an eligible customer-generator that remain unused after the twelve (12)-month reconciliation period.⁷

B.

Transmittal No. 06-01

On April 26, 2006, KIUC filed Transmittal No. 06-01, which proposes to revise its existing Tariff Rule 17, Net Energy Metering ("Rule 17"), "to be consistent with the amendments made by both Act 99 - 2004 and Act 104 - 2005."⁸ On May 18, 2006, the commission suspended KIUC's transmittal for further review.⁹

⁶See HRS § 269-106 (billing periods; twelve-month reconciliation).

⁷See HRS §§ 269-105 (calculation), 269-106 (billing periods; twelve-month reconciliation), 269-107 (net electricity consumers), 269-108 (net electricity producers; excess electricity credits and credit carry over), 269-109 (net electricity consumption or production information), and 269-110 (termination by eligible customer-generators); and Conference Committee Report No. 7, on Senate Bill No. 1003, SD 2, HD 2, CD 1, in 2005 House Journal 1732.

⁸KIUC's Transmittal No. 06-01; Exhibits 1 - 3; Verification; and Certificate of Service, filed on April 25, 2006 (collectively, "Transmittal No. 06-01"). KIUC's existing Rule 17 took effect on September 29, 2004.

⁹Order No. 22475, filed on May 18, 2006. In suspending KIUC's transmittal, the commission noted:

In In re Hawaiian Elec. Co., Inc., Docket No. 05-0037 ('Docket No. 05-0037'), the commission approved detailed changes to the respective net energy metering tariff rules

C.

Consumer Advocate's Position

By its Statement of Position filed on November 9, 2006, the Consumer Advocate does not object to the commission's approval of KIUC's transmittal, subject to certain revisions, on the ground that the proposed changes to Rule 17 are consistent with the amendments to the Net Energy Metering Law promulgated by Acts 99 and 104.¹⁰ In particular, the Consumer Advocate notes that KIUC's proposed changes to Rule 17: (1) include "governmental entity" within the definition of an "eligible customer-generator;" (2) allow the excess electricity generated by the eligible customer-generator in each monthly billing period to be carried over to the next month as a monetary value to the credit of the eligible customer-generator; and (3) allow the commission to establish a different maximum energy metering capacity either by rule or order.

filed by Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Limited, and agreed-upon with the Consumer Advocate. See Decision and Order No. 22313, filed on March 9, 2006; and Decision and Order No. 21877, filed on June 17, 2005. The revisions authorized by the commission in Docket No. 05-0037 incorporate the requirements of Acts 99 and 104. By contrast, KIUC's transmittal appears at this time to lack sufficient detail.

Order No. 22475, at 4 - 5, n.9.

¹⁰Consumer Advocate's Statement of Position and Certificate of Service, filed on November 9, 2006 (collectively, "Statement of Position").

That said, the Consumer Advocate makes the following recommendations:

1. KIUC should state whether a customer whose eligible customer-generator produces and transmits more electricity to KIUC's system than consumed from KIUC's system will be subject to any charge for the energy consumed, including the assessment of a minimum charge. "In addition, should a customer be charged a minimum charge, it is not clear whether the credits carried over from prior months can be applied to the minimum charge. Thus, KIUC should clearly state whether credits carried over from prior months can be applied to the minimum charge."¹¹

2. While Rule 17 states that the average cost of energy excludes the monthly customer charge and any demand charges, KIUC should clearly state whether the average cost of energy also excludes any base rate adjustments.

3. KIUC should "provide an illustration of the manner in which the monthly reconciliation will be calculated, including the carry over of unused credits during the 12-month reconciliation period."¹²

4. Rule 17, Section C, refers to but does not incorporate by reference KIUC's Net Energy Metering Agreement. The Consumer Advocate recommends including the Net Energy Metering Agreement as part of Rule 17, as revised.

¹¹Consumer Advocate's Statement of Position, at 4.

¹²Consumer Advocate's Statement of Position, at 5.

5. KIUC should clarify whether it will require the customer to also enter into a separate interconnection agreement, and if so, include a sample interconnection agreement in Rule 17, as revised, for the customer's benefit.

6. It appears reasonable (and consistent with Act 99, Section 2) to expect all customer-generator facilities and interconnection systems to be in compliance with all applicable safety and performance standards of the National Electrical Code, Institute of Electrical and Electronic Engineers, and accredited testing laboratories such as the Underwriters Laboratories. Thus, it may be beneficial to include such a statement in Rule 17, as revised.

7. Rule 17 makes no mention of who will be responsible for the cost of installing the meter to record the flow of electric power in each direction. "If it is KIUC's intention to have the customer responsible for this expense, then it is recommended that the tariff so state such responsibility and identify the specific types of equipment for which the customer will be responsible for installing at its expense."¹³

8. KIUC should identify the process it will follow to interconnect the eligible customer-generator in order to avoid any confusion as to what is required and what must be considered.

¹³Consumer Advocate's Statement of Position, at 6.

D.

KIUC's Reply and its Revised Rule No. 17

By its Reply Statement of Position filed on November 21, 2006, KIUC states that it does not object to the Consumer Advocate's proposed revisions to Rule 17, on the ground that the proposals are reasonable under the circumstances. KIUC agrees to incorporate the proposed revisions, and after making the revisions and consulting with the Consumer Advocate, KIUC intends to submit its updated proposal to the commission for its review and approval.¹⁴

On May 1, 2007, KIUC filed its Revised Rule No. 17, "which contains the revisions that have been jointly developed and agreed to between KIUC and the Consumer Advocate, and are intended to further clarify the document [and] be consistent with the Consumer Advocate's recommendations."¹⁵

II.

Discussion

As set forth in Exhibit 1 of Order No. 22666, filed on August 2, 2006, the issue in this proceeding is whether the tariff changes proposed by KIUC should be approved and allowed to take effect in accordance with HRS § 269-16 and HAR § 6-61-111.

¹⁴In response to KIUC's Reply Statement of Position, the commission, on November 28, 2006, instructed KIUC to file its Revised Rule 17 for the commission's review and approval by March 1, 2007. See Order No. 23087, filed on November 28, 2006. Thereafter, the commission approved KIUC's request for an extension of time, until May 1, 2007, to file its Revised Rule 17. See commission's letter, dated February 16, 2007.

¹⁵KIUC's Revised Transmittal Letter, at 1 - 2.

HRS §§ 269-12(b) and 269-16(a) and (b) state in relevant part:

§269-12 Notices. . . .

(b) Any notice provided pursuant to section 269-16(b), shall plainly state the rate, fare, charge, classification, schedule, rule, or practice proposed to be established, abandoned, modified, or departed from and the proposed effective date thereof and shall be given by filing the notice with the commission and keeping it open for public inspection.

§269-16 Regulation of utility rates; ratemaking procedures. (a) All rates, fares, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility or by two or more public utilities jointly shall be just and reasonable and shall be filed with the public utilities commission. The rates, fares, classifications, charges, and rules of every public utility shall be published by the public utility in such manner as the public utilities commission may require, and copies shall be furnished to any person on request.

.

(b) No rate, fare, charge, classification, schedule, rule, or practice, other than one established pursuant to an automatic rate adjustment clause previously approved by the commission, shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice to the commission as prescribed in section 269-12(b), and prior approval by the commission for any increases in rates, fares, or charges

HRS §§ 269-12(b) and 269-16(a) and (b); see also HRS § 269-16.2 (any rules, guidelines, or other standards of a public utility that interpret state law governing non-utility generators shall be approved by the commission before adoption); and HAR § 6-61-111 (tariffs filed by public utilities).

The text of KIUC's Revised Rule 17 consists of four sections: (1) Section A, Eligible Customer-Generator; (2) Section B, Metering and Rendering of Bills; (3) Section C, Agreement, Interconnection Requirements and Process; and (4) Section D, Maximum Net Energy Metering Capacity.¹⁶

For Section A, KIUC seeks to: (1) clarify that net energy metering is available to eligible customer-generators, consistent with Act 99, Section 1; and (2) insert the phrase "or greater amount as approved by Commission rule or order," consistent with Act 104, Section 1, to indicate that a system with a total capacity of more than 50 kW is eligible for net energy metering, if approved by commission rule or order.

Section B presently consists of a single paragraph, which KIUC proposes to revise for clarity purposes. In addition, KIUC, in response to the Consumer Advocate's recommendation, proposes to add a new paragraph, which specifies that: (1) KIUC, at its expense, may install a meter to record the flow of electricity in each direction; and (2) the eligible customer-generator, at the customer's expense, shall install the equipment required for service connection and meter installations on the customer's premises. KIUC also proposes to add the following three paragraphs to Section B, consistent with Act 104, Sections 6 - 10, and the Consumer Advocate's recommendations:

The eligible customer-generator shall, however, receive a monetary credit for any net excess

¹⁶KIUC's Revised Rule 17 also includes three exhibits: (1) Exhibit A, Sample Spreadsheet Illustrating Annual Net Energy Metering Reconciliation Process; (2) Exhibit B, Net Energy Metering Agreement; and (3) Exhibit C, Net Energy Metering Process.

generation (kwh). This credit, which will be carried over to the following month's bill, is calculated based upon the average costs of energy (cents/kwh) applicable in the month in which the net excess generation occurred. This average cost of energy includes the Energy Charge and other base rate adjustments such as the Resource Cost Adjustment Surcharge and the Energy Rate Adjustment Clause, but excludes the monthly Customer Charge/Minimum Charge and any Demand Charge.

An eligible customer-generator continues to be subject to the monthly Customer Charge, Minimum Charge and/or Demand Charge, if any and as set forth in the applicable rate schedule, notwithstanding the fact that the customer, in a particular month, has generated and transmitted more electricity to the Company's system than consumed from the Company's system. When the eligible customer-generator is billed the Customer Charge, Minimum Charge, and/or Demand Charge in any billing period, the customer's cumulative net monetary credit that remains unused at the end of the twelve-month reconciliation period, if any, shall not be applied or otherwise credited toward the monthly Customer Charge, Minimum Charge and/or Demand Charge due. A sample spreadsheet illustrating the above-referenced annual reconciliation process, including the manner in which the monthly reconciliation is calculated and an accounting of credits, is attached as Exhibit A to this Rule 17.

The monthly carry-over credit shall be reconciled every twelve months. The twelve-month reconciliation period is from July 1 - June 30. Any credit for excess electricity from the eligible customer-generator that remains unused at the end of the twelve-month reconciliation period may not be carried over to the next twelve-month reconciliation period.

KIUC's Revised Rule 17, Sheets 55a and 55b.¹⁷

For Section C, KIUC, consistent with Act 99, Sections 1 - 2, Act 104, Sections 1 - 10, and the Consumer Advocate's recommendation: (1) describes the

¹⁷The inclusion of Exhibit A, KIUC Sample Spreadsheet Illustrating Annual Net Energy Metering Reconciliation Process, is consistent with the Consumer Advocate's recommendation.

interconnection requirements for an eligible customer-generator's facilities, including compliance with all applicable commission and industry safety, performance, and reliability standards; (2) incorporates by reference Exhibit B, Net Energy Metering Agreement, which includes the changes proposed by KIUC to Sections A and B, as described above; and (3) incorporates by reference Exhibit C, KIUC Net Energy Metering Process, consisting of a flowchart that outlines the net energy metering process for interested, eligible customer-generators.

For Section D, KIUC, consistent with Act 104, Sections 3 - 4, proposes to clarify that "in no instance will the sum of the total rated generating capacity of all eligible customer-generator facilities, including the addition of the interested customer-generator's system exceed 0.5% of the Company's system peak demand for the preceding calendar year or a different percentage as approved by Commission rule or order."¹⁸

Upon review, the commission finds that KIUC's Revised Rule 17: (1) appears consistent with the revisions to the Net Energy Metering Law promulgated by Act 99 and Act 104, and the overall intent of said law, i.e., to encourage the expansion of net energy metering in the State of Hawaii ("State"); (2) incorporates the changes proposed by the Consumer Advocate; and (3) as represented by KIUC, provides further clarity to KIUC's existing Rule 17. The commission approves as just and reasonable KIUC's Revised Rule 17, and will allow the Revised Rule 17 to take effect from the date of this Decision and Order.

¹⁸KIUC's Revised Rule 17, Revised Sheet 55c.

III.

Orders

THE COMMISSION ORDERS:

1. KIUC's Revised Rule 17, Net Energy Metering, filed on May 1, 2007, is approved and allowed to take effect from the date of this Decision and Order.

2. Within seven days from the date of this Decision and Order, KIUC shall file their revised tariff sheets with the applicable issued and effective dates, with copies served on the Consumer Advocate.

3. The commission reserves the right to adjust or modify KIUC's Revised Rule 17, if necessary, consistent with the public interest and State law.

4. KIUC shall comply with the commission's order set forth in Ordering Paragraph No. 2, above. The failure to adhere to the commission's order constitutes cause to void this Decision and Order, and may result in further regulatory action as authorized by law.

5. Upon the filing of KIUC's revised tariff sheets, this docket shall be closed, unless ordered otherwise by the commission.

DONE at Honolulu, Hawaii

JUN 19 2007

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

Michael Azama
Michael Azama
Commission Counsel

2006-0134.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 23495 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

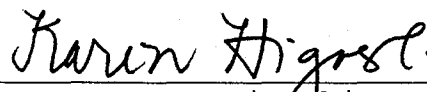
CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

RANDALL J. HEE, P.E.
PRESIDENT AND CHIEF EXECUTIVE OFFICER
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe'e Street, Suite 1
Lihue, HI 96766-2000

TIMOTHY BLUME
MICHAEL YAMANE
KAUAI ISLAND UTILITY COOPERATIVE
4463 Pahe'e Street, Suite 1
Lihue, HI 96766-2000

KENT D. MORIHARA, ESQ.
KRIS N. NAKAGAWA, ESQ.
RHONDA L. CHING, ESQ.
MORIHARA LAU & FONG LLP
841 Bishop Street, Suite 400
Honolulu, HI 96813

Counsel for KIUC



Karen Higashi

DATED: JUN 19 2007